IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

WP(C).No. 13819 of 2006(T)

PETITIONER:

D.INDIRA, SENIOR CLERK, PANACHAMOODU SERVICE, CO-OPERATIVE BANK LIMITED NO.T.126, PANACHAMOODU, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.N.NANDAKUMARA MENON
SRI.P.K.MANOJKUMAR

RESPONDENTS:

1. **THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, CO-OPERATION (C) DEPRTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), THIRUVANANTHAPURAM.**

3. **BEENA.S. BRANCH MANAGER, PANACHAMOODU SERVICE CO-OPERATIVE BANK LIMITED NO.T.126. PANACHAMOODU, THIRUVANANTHAPURAM DIST.**

4. **PADMAJA DEVI, SENIOR CLERK, PANACHAMOODU SERVICE CO-OPERATIVE BANK LIMITED, NO.T.126, PANACHAMOODU, THIRUVANANTHAPURAM DIST.**

5. **PANACHAMOODU SERVICE CO-OPERATIVE BANK LIMITED NO.T.126, PANACHAMOODU, THIRUVANANTHAPURAM DISTRICT, REPRESENTED BY ITS SECRETARY.**

BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
SRI.PIRAPPANCODE V.S.SUDHIR
SRI.G.SUDHEER
SRI.S.V.PREEMAKUMARAN NAIR KULATHOOR
SRI.R.T.PRADEEP
BY GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.C NO.13819/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER NO.CRP.(1)2913/98 K.DIX. DT.21.5.98 ISSUED BY THE ASSISTANT REGISTRAR, DISTRICT CO-OPERATIVE BANK THIRUVANANTHAPURAM.

EXT.P2:- COPY OF THE RESOLUTION DT.31.12.01 PASSED BY THE BOARD OF DIRECTORS OF THE BANK, LTD. PANACHAMOODU , TVM.

EXT.P3:- COPY OF THE ORDER DT.1.1.02 PASSED BY THE 4TH RESPONDENT BANK.

EXT.P4:- COPY OF THE CIRCULAR NO.EM (2) 1674/89 DT.2.5.89 ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES, TVM.

EXT.P4(a):- COPY OF THE FORM C ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES ON THE BASIS OF EXHIBITS P4 CIRCULAR NO.26/89 DT.2.5.89.

EXT.P5:- COPY OF THE JUDGMENT DT.25.7.02 IN OP. NO.10765/02 PASSED BY THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM.

EXT.P6:- COPY OF THE ORDER CRP (1) 8943/01 K.DIS DT.9.10.02 PASSED BY THE JOINT REGISTRAR OF CO- OPERATIVE SOCIETIES, TVM.

EXT.P7:- COPY OF THE APPEAL PETITION DT.17.12.02 FILED BY THE PETITIONER BEFORE THE GOVERNMENT.

EXT.P8:- COPY OF THE GOVERNMENT ORDER G.O.(Rt) NO.709/05/CO- OP., DT.19.12.05 ISSUED BY THE GOVERNMENT.

RESPONDENTS EXHIBITS

EXT.R4(a):- COPY OF THE RESOLUTION NO.2/98-99 DT.25.5.98 APPOINTING WITH EFFECT FROM 1.4.98.

EXT.R4(b):- COPY OF THE CERTIFICATE DT.8.801 REGARDING PASS OF JDC.

EXT.R4(c):- COPY OF THE ORDER DT.6.1.03 ISSUED BY THE RESPONDENT.

/TRUE COPY/

tss

S. SIRI JAGAN, J.

W.P.(C)NO. 13819 OF 2006

DATED THIS THE 5th DAY OF MARCH, 2007

JUDGMENT

This writ petition relates to a dispute regarding seniority between the petitioner on the one hand and the 4th respondent on the other. Both of them are employees of the 5th respondent Co-operative Bank. The petitioner is a regularly recruited person and 4th respondent is a person who has been appointed in a dying in harness vacancy. The contention of the petitioner is that the 4th respondent was appointed without prior concurrence of the Registrar of Co-operative Societies as contemplated under Rule 188A of the Kerala Co-operative Societies Rules and therefore her appointment can be held to be valid only from the date of actual concurrence given by the Joint Registrar. Learned Counsel for the 4th respondent submits that the application by the Society for concurrence was forwarded to the Joint Registrar prior to her actual appointment and therefore the delay at the hands of the Joint Registrar cannot prejudice her rights.

2. I am not inclined to go into the merits of the rival contentions in this writ petition, since the petitioner has an effective alternate remedy by way of filing a petition under Section 69 of the

Kerala Co-operative Societies Act before the Arbitration Court. Therefore, without prejudice to such right of the petitioner to approach the Arbitration Court under Section 69 of Kerala Co-operative Societies Act this writ petition is dismissed. If the petitioner files a petition under Section 69 before the Arbitration Court, within three weeks from the date of the receipt of a copy of this judgment, the Arbitration Court shall decide the disputes between the petitioner and the 4th respondent, on merits, as one filed within time as expeditiously as possible.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

Acd